

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
JUNE 4, 2008**

CALL TO ORDER

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Marie Hickey-AuClaire, Marc Pitman, Mike Mower, Gordon Cross, Frank DeKort, Rita Hall (*in @ 6:10*), Randy Toavs , and Jim Heim. Gene Dziza had an excused absence. Dianna Broadie and Jeff Harris represented the Flathead County Planning & Zoning Office.

There were approximately 10 people in the audience.

**APPROVAL OF
MINUTES**

DeKort made a motion seconded by Heim to approve the February 13, 2008, April 9, 2008, and April 16, 2008 meeting minutes.

The motion was carried by quorum.

**PUBLIC COMMENT
(not related to
agenda items)**

None.

**GLACIER INT'L
BUSINESS PARK
(FPP 08-02)**

A request by Bill Reddig for Preliminary Plat approval of Glacier International Business Park, a 10 lot commercial subdivision on 29.61 acres. Lots in the subdivision are proposed to have community water and sewer systems. The property is located at 1370 US Highway 2 East.

STAFF REPORT

Dianna Broadie reviewed Staff Report FPP 08-02 for the Board.

BOARD QUESTIONS

Pitman asked why staff is recommending a level 2 treatment system.

Broadie stated because of agency comment regarding high-groundwater.

Pitman said a level 2 treatment system gets no additional separation; he doesn't see how that would help. He said it would reduce the drain field size. He continued to talk about the technical aspects of septic systems.

Heim asked about the incomplete phases of Glacier Ranch.

Broadie said they would have to come back to the planning office for phasing. She said the preliminary plat is filed.

Pitman talked about Glacier Ranch and their treatment system.

Cross mentioned MDT's recommendation regarding access. Broadie talked about access and safety.

**APPLICANT
PRESENTATION**

Hall asked about site-specific condition #21 regarding fire hydrants that run at 1000 g.p.m.

Broadie said fire hydrants are not an uncommon thing to condition for commercial developments and that the applicant could further address that.

Pitman said they were required to have 1500 g.p.m. for Glacier Ranch.

Olaf Irvin, of Montana Mapping, represented the applicants. He talked about the direct access onto Highway 2. He said MDT is okay with it because it has an approved approach. He said a level 2 treatment system is that was suggested by the Planning Office, not Environmental Health. They have been monitoring the site for 3 years and are still doing so. He said there are no DEQ rules that would require them to have a level 2 system. He talked about the proposed drain field, groundwater, access, and the bike path easement.

Pitman asked about having a level 2 treatment system.

Irvin said they designed the drain field lot for a standard drain field. He discussed the lot sizes and the possibility of hooking in with Glacier Ranch.

Pitman said he saw something in the application about creating a water and sewer district.

Irvin said they would like to annex into Glacier Ranch at least for the water and would deal with their own septic issues. He mentioned the extensive water rights that are tied to the property.

Mower asked about the treatment system.

Irvin elaborated.

Mower asked about test holes.

Irvin talked about the test sites across the property.

Pitman asked if the applicants are opposed to doing a level 2 system.

Irvin doesn't think there is anything to be gained with it but he isn't willing to "lose" this project over it. He said there are state agencies that are charged with regulating these things.

Cross mentioned the "no further subdivision" clause in the CC&R's.

Irvin said yes.

Cross asked if there would be any restrictions of use.

He discussed the model CC&R's. He said there would be architectural standards and talked about the kind of shops that could go in.

AGENCY COMMENT None.

PUBLIC COMMENT None.

**APPLICANT
REBUTTAL** None.

**STAFF
REBUTTAL** None.

**MAIN MOTION TO
ACCEPT F.O.F.** Pitman made a motion seconded by DeKort to adopt Staff Report FPP 08-02 as findings-of-fact.

**BOARD
DISCUSSION** Cross asked if there is a finding in regard to the level 2 treatment system.

Pitman doesn't think there's anything wrong with that finding.

The Board discussed a finding regarding access.

**MAIN ROLL CALL
TO ACCEPT F.O.F.** On a roll call vote the motion passed unanimously.

**MOTION TO
RECOMMEND
APPROVAL** Pitman made a motion seconded by Heim to recommend approval to the Flathead County Commissioners.

**BOARD
DISCUSSION** Pitman talked about the level 2 system. He talked about the area in regard to the soils. He doesn't necessarily think it should be required.

Cross said they had an engineer on the board. It was his opinion that in areas of high groundwater a level 2 was better. In the instance there is a high-water event, the probability of contamination from the septic is less with a level 2 system. It kind of became a Planning Board standard when there was high groundwater.

Pitman doesn't think there will be groundwater issues in this area but it's always possible. He continued to talk about level 2 systems.

Mower said usually he pushes for level 2 systems when there are groundwater issues. He said it sounds like they've monitored this site for a number of years and there hasn't been any indication of groundwater. He doesn't see any reason to impose a higher standard than is necessary; if the developer wants go ahead and do it then he's fine with that.

The Board continued to discuss groundwater.

**MOTION TO
REMOVE
CONDITION #21**

Pitman made a motion seconded by Hickey-AuClaire to remove site-specific condition #21.

**ROLL CALL TO
REMOVE
CONDITION #21**

On a roll call vote the motion failed on a 4-4 vote with Cross, DeKort, Mower, and Heim dissenting.

**MOTION TO
REMOVE
CONDITION #26**

Toavs made a motion seconded by DeKort to remove condition #26 in regard to access.

**BOARD
DISCUSSION**

Hall asked if 26(a) would be removed as well.

Cross said no and clarified the motion.

**ROLL CALL TO
REMOVE
CONDITION #26**

On a roll call vote the motion passed 7-1 with Mower dissenting.

**MOTION TO ADD
CONDITION**

Cross made a motion seconded by DeKort to add a site-specific condition to state: *No further subdivision is allowed unless permitted under future zoning.*

**BOARD
DISCUSSION**

Cross thought this was a great-looking subdivision but with the traffic issues he thinks the abovementioned condition is good.

**ROLL CALL TO ADD
CONDITION**

On a roll call vote the motion passed 7-1 with Hall dissenting.

**ROLL CALL TO
RECOMMEND
APPROVAL AS
CONDITIONED**

On a roll call vote the motion passed unanimously.

**AUSTIN BUSINESS
PARK
(FPP 08-07)**

A request by Lewis J. Spellman for Preliminary Plat approval of Austin Business Park, an 8 lot subdivision (4 commercial and 4 industrial) on 13.7 acres. Lots in the subdivision are proposed to have public water and sewer systems. The property is located off Highway 206, north of Berne Road and just south of the intersection of Highway 206 and Highway 40.

STAFF REPORT

Dianna Broadie reviewed Staff Report FPP 08-07 for the Board.

BOARD QUESTIONS

Cross asked about a condition by staff regarding retail businesses.

Broadie wanted to reduce the number of people onsite at any given time; retail is usually higher.

Cross asked if her recommendation was from a safety standpoint because of the gas line and high transmission power line.

Broadie said that's correct.

Several of the board members commended Broadie on her staff reports.

**APPLICANT
PRESENTATION**

Rob Smith, of A2Z Engineering, represented the applicant. He said the property owner wants to use this property for its highest and best use. He said this property has good drainage and a deep groundwater table. He talked about having a community septic drainfield and the sizing of the lots. He asked the Board to reconsider a couple issues in the staff report. He talked about the transmission lines and the safety factor. He doesn't want restrictions that would devalue the lots for retail use. He expressed concern for having an additional 10-ft easement for a bike/pedestrian trail.

Paul Badgley (*realtor*), 66 Great Bear Lane, said this development has the potential to fit a community need. He handed out some information to the board that shows what uses surround the property. He talked about how to accommodate the residential areas around it. He talked about natural landscape buffer, paving, and access. They are trying to do a usable subdivision with the least impact on the surrounding neighborhood. They don't want to restrict uses and he doesn't think gas or power lines are a big deal. He likes bike paths but doesn't necessarily agree with the requested setback.

Cross asked why a landscape plan wasn't shown on a plat.

Rob Smith said it's not typically a county requirement but they aren't opposed to it.

Cross mentioned having commercial and light industrial lots.

Jon Thomas said they have no intention of confining the use. He said there's a 6-ft security fence around the high-pressure gas station, with reversed barbed wire, that would make it impossible to climb over. He thinks the case of retail being located close to utilities is pretty well precedent throughout the country. He doesn't see the justification, in regard to the financial aspect, for restrictions on this property.

Toavs asked about the cul-de-sac road.

Thomas talked about angles, site distance, approach, and the reason for the cul-de-sac.

Thomas asked about site-specific condition #26 and asked if there are any guidance documents in place for landscape plans.

Broadie said what she wrote is pretty much all the guidance there is.

Thomas said landscaping can get very expensive and is concerned how open-ended it is as far as guidance.

Badgley gave an example of a landscaping buffer they did for a city project.

AGENCY COMMENT

None.

PUBLIC COMMENT

Bill Stanley said he and his wife Margaret are adjacent property owners. He talked about traffic safety, access, dust control, paving, and traffic studies.

Cross said a traffic study was included in the applicant's file; they anticipate that 100% of the traffic would go from Berne road to southern approach onto Highway 206.

Stanley asked about the public water and sewer system.

Thomas showed the well and pump-house locations on a map.

Stanley asked how deeps the wells would be.

Thomas said there is readily available water fairly shallow. There are several layers of the aquifer to get into. He said if you get too deep there's an iron-manganese issue, so probably around 200-250 feet.

Stanley said most of the wells on the east side of Berne road are around 300 feet. He asked what was required in regard to the landscape.

Cross said that's something they'll talk about in board discussion.

Linda Sunberg, 561 Berne Rd., addressed the paving and said where they plan to pave to would fall right in the middle of her driveway. She expressed concern about children who walk to the bus stop on that road. She wanted that to be addressed so the children are safe. Cross asked her if there is a bus stop.

Sunberg said at the south end of Highway 206 and Berne. She thinks there are about 4-8 children who catch the bus right now.

**APPLICANT
REBUTTAL**

Thomas said paving wouldn't be a problem. They would pave the road past her driveway; not stop right in the middle.

**STAFF
REBUTTAL**

Broadie rebutted the bike path and said it's a standard thing ask of all applicants. She said a path would give the children a safe way to get to the bus stop. She said there is conductivity across the road so a continued path could be done at some point in the future. She commented in regard to retail uses and suggested a condition to that effect.

**BOARD
DISCUSSION**

Pitman asked if the bike path easement would run north to south on Berne road. He sees the logic for a connection out to Highway 2 one way, but not necessarily on both sides.

Broadie said Berne road continues south on to residential areas.

Pitman said they try to find ways to connect bike routes. It seems a bike route would be along a secondary highway; not down Berne road.

Broadie said staff doesn't generally require them down highway corridors. Taking them off high-traffic roads is safer.

Hickey-AuClaire asked for clarification from a letter from Dan Walls in regard to right-of-way and easements.

Broadie said it looks like they're asking for an easement along the entire section of Highway 206 because of the future widening that highway.

Cross asked if the applicant's had seen this letter.

Thomas said no.

**MAIN MOTION TO
ACCEPT F.O.F.**

Hickey-AuClaire made a motion seconded by Hall to adopt staff report FPP 08-07 as findings-of-fact.

**BOARD
DISCUSSION**

Cross said Marie's question was one he had as well and didn't see it addressed in the staff report.

The board continued to discuss easements.

Badgley said his client purchased the property as a remainder from a highway department subdivision; that's why there was no septic approval. They are the ones that put the 50 foot easement in when they divided it. The highway department owns the property across from this property.

Broadie mentioned a natural gas line located within the easement area and said typically those aren't paved over so widening on that side of the road would be less likely.

Toavs doesn't really like Berne Road and think it's more of a safety concern than stated. There's a terrible corner where many accidents and fatalities have occurred and is surprised by the traffic study. He thinks the cul-de-sac should go through to the other side so there's more than one way to get out. He said there isn't a finding about all the accidents.

Cross gave some wording in regard to a finding.

Hall asked about the other end of the road by RBM Lumber.

Toavs said it's not a very good corner either but you can see better, which makes it safer.

Hall talked about the road issue in regard to paving and mentioned landscaping.

Toavs said it doesn't necessarily all have to be paved. He said they would get to landscaping later, but he wanted to construct a finding in regard to the danger of the road.

**MOTION TO ADD
F.O.F. regarding
road safety**

Toavs made a motion seconded by DeKort to add a finding-of-fact to read: *Public testimony and board opinion pointed to the dangerous nature of the dangerous nature of the intersection with Highway 206 and the southernmost portion of Berne Road.*

**ROLL CALL TO ADD
F.O.F. regarding
road safety**

On a roll call vote the motion passed unanimously.

**MOTION TO ADD
F.O.F. regarding
backside of
businesses**

Toavs made a motion seconded by Cross to add a finding-of-fact to read: *That there is a possibility that the businesses located on lots 1-5 will have their backs facing Highway 206.*

**BOARD
DISCUSSION**

Jon Thomas commented that it depends on the nature of the business.

Pitman commented on the approaches to the businesses.

Pitman and Toavs discussed the proposed finding.

Broadie asked for clarification of the motion.

Hall asked to rescind her second on the motion. Cross seconded the motion.

**ROLL CALL TO ADD
F.O.F. regarding
backside of
businesses**

On a roll call vote the motion passed 6-2 with Hall and Heim dissenting.

**MOTION TO
APPROVE AS
CONDITIONED**

Toavs made a motion seconded by Hickey-AuClaire to recommend approval, as conditioned, to the County Commissioners.

**BOARD
DISCUSSION**

Cross said when they reviewed the Growth Policy there was discussion about buffers between various uses. He asked Grieve to comment on the reasons why you buffer between uses.

Grieve discussed why you buffer between uses. For example, you don't want to have high-density residential next to industrial because of the mutually deleterious impacts.

Toavs discussed businesses, frontage roads, and landscaping. He talked about forgoing the landscape buffers on some of the residential sides and keeping the highway corridor a little cleaner.

Cross talked about the landscaping.

Mower said people should be made aware that there are high-pressure gas lines around the property. He wasn't sure it was a good idea to put retail there that would bring in a bunch of people. He said gas lines periodically burst and it can be scary.

Hall asked which lots would have the high-pressure gas lines crossing them.

Badgley said the gas line runs down the highway, not across the property.

Cross had concerns with condition #22; the wording is vague.

Grieve said when they come in to have final plat approval the statement goes on the final plat. If someone complains about a violation staff doesn't really have a way to take care of it. He wanted the Board to realize the different between subdivision regulations

and land use regulations.

**MOTION TO
REMOVE
CONDITION #22**

Heim made a motion seconded by Hall to remove condition #22.

**ROLL CALL TO
REMOVE
CONDITION #22**

On a roll call vote the motion failed 4-4 with Mower, DeKort, Cross, and Toavs dissenting.

**MOTION TO AMEND
CONDITION #22**

Rita made a motion seconded by Toavs to amend condition #22

The motion died.

**BOARD
DISCUSSION**

Toavs asked staff if there is a definition of high-volume retail.

Staff said no.

Rita said as it stands, condition #22 is not stricken. She said the board shouldn't make rules if there's no mechanism to enforce it.

Cross said a lot of things go on the face of final plats that aren't necessarily enforceable but it makes people aware of things. He said he would rather have the condition as is rather than something that states high-volume.

Broadie discussed accessory uses.

The Board continued to discuss uses.

Toavs asked about removing the cul-de-sac and having a through road.

Broadie explained.

The board, staff, and the applicants discussed the road issue.

Cross commented on the bike path easement and said it's standard.

Cross asked staff the difference between conditions 16 and 20.

Broadie said it's a duplication that needs to be eliminated.

Cross mentioned having staff craft acceptable language in regard to landscaping.

Thomas said they can work with staff in the coming weeks to come up with something.

**MOTION TO
REMOVE
CONDITION #20
ROLL CALL TO
REMOVE
CONDITION #20**

Mower made a motion seconded by Heim to remove condition #20.

On a roll call the motion passed unanimously.

**BOARD
DISCUSSION**

Mower wondered if, as a point of community interest, there's a precedent for having the developer do something with a shelter/bus stop.

Cross said yes, but normally that happens with residential development. The Superintendent will submit comment to that effect.

**ROLL CALL TO
APPROVE**

On a roll call vote the motion passed 7-1 with Toavs dissenting.

**RLD WATERSIDE
(FLP 08-43)**

A request by A2Z Engineering on behalf of Mr. Worth Williams, RLD Waterside, Ltd., for a Major Lakeshore Review on property located at 5585 U.S. Highway 93 South in Somers. The applicants are proposing a 13 slip marina consisting of 2 docks that would be installed for a private marina appurtenant to a residential condominium.

STAFF REPORT

George Smith reviewed Staff Report FLP 08-43 for the Board.

BOARD QUESTIONS

Heim said all the written documentation staff discussed is overwhelming. He wanted clarification as to whether or not there are any variances and if they are in compliance with regulations.

Smith said they are in compliance with the specifics of the regulations other than the 10-ft wing-wall that's for breakwater.

Mower asked Staff's basis for bringing this project before the board.

Smith said primarily because of navigational impact and proximately to existing residential waterfront uses. He said the whole north end of the bay is congested and it will only get more so.

Grieve said bringing this to the board is also an opportunity to hold a public hearing.

Cross said staff has the ability to bring items before the Board as necessary.

Smith reiterated the Board's role in the review of this lakeshore permit.

**APPLICANT
PRESENTATION**

Jon Thomas, of A2Z Engineering, represented the applicant. He walked the board through the design elements.

AGENCY COMMENT

None.

PUBLIC COMMENT

Ed Kerley, 5557 Hwy 93 South, just east of this project. He discussed several concerns in regard to the boat slips. He wanted to know who will maintain ownership of the docks. He also has concerns about the lighting.

Jan Kerley, 5557 Hwy 93 South, said these docks affect the whole Somers Bay area. She said only 4 people got notice of this meeting and thinks that's inadequate. Somers Bay is one of busiest, most used, bays on the lake. She talked about the boat, jet ski, kayak, and swimming activity in the bay. She is concerned about the safety for people who swim in that area. She said there is a 200-ft "no wake zone" that no one abides by. She said it's a wonderful area that's being inundated with users. She would like to see a condition added stating that until Fish & Game can come to patrol the lake, no docks can be added. As is, it's an accident waiting to happen. She thanked the board for the opportunity to speak.

Joe Orr, 5655 Hwy 93 South, lives 4 properties down from the south. He said Jan did not exaggerate on the safety issue; it's dangerous out there. He wanted to see the board lean towards a good buoy system as a means of mitigation. He mentioned the Terrace at Somers Bay development and said they have 17 boats slips that haven't been filled.

Ken Torgerson, 233 N. Juniper Bay Road, lives on property just south of this project. He said private marinas are to be used by occupants and owners of these units and thinks that needs to be enforced. He said there were several boats parked at the Terrace last summer and not one of them belonged to an owner. He said renting the slips is not the intent of a private marina.

**APPLICANT
REBUTTAL**

Jon Thomas addressed concerns about the lighting, ownership, and day slips. He said the "no wake zone" and buoy system is a great idea. It could be part of a solution to the congestion in the bay.

Mower asked the applicant to explain a buoy system.

Thomas said he still needed more clarification from the Army Corp of Engineers as to where they could place the buoys.

Smith elaborated and the placement of buoys. He said if the community wants to get involved in something like this, something can be worked out to waive fees in the interest of public safety. He said they would work with the US Army Corps and Fish and Game.

Mower asked about “no wake zone.”

Smith said it is 200 feet.

Thomas said they want to accommodate neighborhood concerns. They are willing to participate in community plans and support it.

Hall asked how many boat slips there would be.

Thomas said there would be 12 permanent slips; 1 ADA slip and 2 boat tie-offs.

Smith said a tie-off is a place for people to come and go if all other slips are occupied. He said they can’t safely use the outside breakwater portion.

Hall asked how many residences would be in the actual development.

Thomas said there are 12 units.

Hall asked what mechanism there is for law enforcement is on Flathead Lake.

Smith said Fish & Game but they didn’t respond to the agency referral letter.

Pitman asked if the covenants would specify how many boats, jet skis, etc. an owner can have. He talked about the day-use slips.

Thomas doesn’t think you can tell an owner how many things they can own so much as how many they can permanently tie up there.

Smith said one vessel.

Thomas said they can launch their jet skis at Somers and can pull up to the beach area anyway.

Cross asked if the lighting would be on all the time.

Thomas said perhaps they could have a sort of a timer; he doesn’t see any need to have them on all night.

The board, staff, and the applicant discussed lighting.

Hall didn’t see how the Board could tell people what and how many things they can have in their slip. She doesn’t think the board can regulate whether a person has two jet skis instead of a boat.

Thomas said you can only fit so much in one of the boat slips and it probably won't be an issue.

**STAFF
REBUTTAL**

Smith thinks they can work with the applicant to specify the lighting. He said they can specify use of the day slips as well as the ADA slip. He wished he would have received a response from US Fish and Game. He would like to see a series of buoys in the whole Somers Bay area. He has a safety concern, especially when it comes to jet skis. He said the layout was placed as it was to preserve the crescent gravel beach.

Cross asked Smith for direction as to the Board's procedure.

Smith said the board could make recommendations for changes to the conditions as well as add conditions.

**MOTION TO ADD
CONDITION**

Pitman made a motion seconded by Heim to add a condition regarding timed lighting and that George Smith would work out the wording.

Final wording: Lighting shall be permitted on the dock; however, all lighting shall be shielded and directed downward and only the dock surface shall be illuminated. A timing device shall be incorporated so that lights will be extinguished when the dock is not in actual use.

**BOARD
DISCUSSION**

The board discussed the lighting condition.

Mower asked some of the neighbors their thoughts on the lighting.

Jan Kerley appreciates the effort and just doesn't want lights on all night long.

**ROLL CALL TO ADD
CONDITION**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Toavs asked about permits for buoys.

Smith said if someone wanted a mooring buoy they would get charged but in the case of a public safety issue there would be no charge.

Mower said the board has to reflect the safety concern to the Commissioners. He thinks there needs to be a study. He talked about the congestion in Somers Bay.

The board discussion adding a finding-of-fact in regard to safety issues and the neighbors coming together for a plan of action.

Jan Kerley said the neighbors are already working on something and said the Waterside people are welcome to join.

The board continued to discuss a buoy system, safety, and a “no wake zone”.

**MOTION TO ADD
F.O.F.**

Pitman made a motion seconded by Hall to add a finding-of-fact to read: *There is a Public Health & Safety problem created by increasing boating activity in Somers Bay, and that navigational buoys may help mitigate the risk.*

**ROLL CALL TO ADD
F.O.F.**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Cross talked about the density of this development and ownership of the docks.

The board and staff continued to discuss ownership of the docks at length.

**MOTION TO ADD
CONDITION**

Pitman made a motion seconded by Mower to add a condition to read: *All boat mooring slips constructed under this permit shall remain the property of the condominium unit to which said slip is assigned and deeded. No transfer, sale, lease or other conveyance may occur, except as attached and associated with the assigned unit, and the use of any and all mooring slips shall be limited to the benefit of each individual condominium unit owner, per Section 4.3, B. 1.b. Flathead County Lake and Lakeshore Regulations.*

**ROLL CALL TO ADD
CONDITION**

On a roll call vote the motion passed unanimously.

**MOTION FOR
RECOMMENDATION**

Pitman made a motion seconded by Mower to forward this application to the Commissioners with a recommendation to approve as conditioned.

**ROLL CALL FOR
RECOMMENDATION**

On a roll call vote the motion passed unanimously.

OLD BUSINESS

BJ Grieve said the board had previously talked about whether or not it was ok to condition a preliminary plat to not allow for a boundary line adjustment between a lot in the subdivision and adjacent tract land. He said according to Peter Steele, county attorney, a condition to that effect would be ok.

Staff and the board discussed future dates for having a workshop.

NEW BUSINESS

Grieve discussed the possibility of doing a workshop with the board and staff to look at thinning fire safe zoning, egress, and emergency evacuations for subdivisions.

Cross said this has been talked about before and said an agenda

would need to be put together before they would agree. If that is substance enough they would be willing to out there and learn.

The board continued to discuss this topic and it was the general consensus to do an onsite visit to a neutral site.

Grieve discussed upcoming board meetings.

ADJOURNMENT

The meeting was adjourned at approximately 10:00 p.m. on a motion by Mower seconded by Hickey-AuClaire. The next meeting will be held at 6:00 p.m. on June 11, 2008.

Gordon Cross, President

Jill Goodnough, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 7/9/08